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SENATE BILL 542

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO CHILDREN; AMENDING THE DEFINITION OF "CAREGIVER" IN
THE KINSHIP GUARDIANSHIP ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 40-10B-2 NMSA 1978 (being Laws 2001,
Chapter 167, Section 2) is amended to read:

"40-10B-2. POLICY--PURPOSE. --

A. It is the policy of the state that the interests
of children are best served when they are raised by their
parents. When neither parent is able or willing to provide
appropriate care, guidance and supervision to a child, it is
the policy of the state that, whenever possible, a child should
be raised by family members, ~~[or]~~ kinship caregivers or
caregivers that maintain intact sibling groups in a residential
setting.

underscored material = new
[bracketed material] = delete

1 B. The Kinship Guardianship Act is intended to
2 address those cases where a parent has left a child or children
3 in the care of another for ninety consecutive days and that
4 arrangement leaves the child or children without appropriate
5 care, guidance or supervision, or where a parent has left a
6 child with a caregiver having power of attorney pursuant to
7 Section 45-5-104 NMSA 1978.

8 C. The purposes of the Kinship Guardianship Act are
9 to:

10 (1) establish procedures to effect a legal
11 relationship between a child and a kinship caregiver or other
12 caregiver when the child is not residing with either parent;
13 and

14 (2) provide a child or a sibling group with a
15 stable and consistent relationship with a kinship caregiver or
16 other caregiver that will enable the ~~[child]~~ children to
17 develop physically, mentally and emotionally to the maximum
18 extent possible when the ~~[child's]~~ children's parents are not
19 willing or able to do so."

20 Section 2. Section 40-10B-3 NMSA 1978 (being Laws 2001,
21 Chapter 167, Section 3) is amended to read:

22 "40-10B-3. DEFINITIONS.--As used in the Kinship
23 Guardianship Act:

24 A. "caregiver" means:

25 (1) an adult, who is not a parent of a child,

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1 with whom a child resides and who provides that child with the
2 care, maintenance and supervision consistent with the duties
3 and responsibilities of a parent of the child; or

4 (2) a nonprofit organization that:

5 (a) receives no public funding;

6 (b) acts as a temporary or permanent
7 guardian of children voluntarily placed in its care pursuant to
8 a caregiver's power of attorney;

9 (c) is dedicated to maintaining sibling
10 groups intact in a residential setting; and

11 (d) provides the children placed with it
12 the care, maintenance and supervision consistent with the
13 duties and responsibilities of a parent of the children;

14 B. "child" means an individual who is a minor;

15 C. "kinship" means the relationship that exists
16 between a child and a relative of the child, a godparent, a
17 member of the child's tribe or clan or an adult with whom the
18 child has a significant bond;

19 D. "parent" means a biological or adoptive parent
20 of a child whose parental rights have not been terminated; and

21 E. "relative" means an individual related to a
22 child as a spouse, parent, stepparent, brother, sister,
23 stepbrother, stepsister, half-brother, half-sister, uncle,
24 aunt, niece, nephew, first cousin or any person denoted by the
25 prefix "grand" or "great", or the spouse or former spouse of

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the persons specified. "